MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on March 7, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:
Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 166, SB 194, 3/4/2001
Executive Action: SB 194, SB 166, SB 52

HEARING ON SB 166

Sponsor: SEN. EMILY STONINGTON, SD 15, Bozeman

Proponents: Kathleen Martin, Chief, Communicable Disease Control and Prevention Bureau, DPHHS

Opponents: None

Opening Statement by Sponsor:

SEN. EMILY STONINGTON, SD 15, Bozeman, said this is a very simple but a good common-sense bill. It has to do with how we treat tuberculosis patients. Actually there is a very interesting historic note to this. Tuberculosis patients, because it is a very contagious disease, always used to have to go to Galen, and then the state closed Galen. The idea was that there is much better modern medicine, that tuberculosis would be treated in local hospitals and even in more residential settings, but our statutes continue to require that if there is a tuberculosis patient, they be treated in a hospital setting. With more modern technology, it makes all the sense in the world to have a more flexible treatment plan available, and that's what this bill does. It gives the public health system, the courts and tuberculosis patients more flexibility in how they're treated; it says that they can use a less restrictive environment, usually meaning their home, and that the setting and treatment plan can be tailored to fit the specific case in question. ***{Tape : 1; Side : A; Approx. Time Counter : 0 - 3.5}***

Proponents' Testimony:

Kathleen Martin, Chief, Communicable Disease Control and Prevention Bureau, DPHHS, said the department is in support of the bill. The statute that is being modified here currently allows a court only to commit a non-compliant t.b. patient to a hospital for diagnosis and treatment. The t.b. cases don't very often get to the point of needing a court commitment, because by statute, county health officers and their designees are required to assure that all t.b. patients in their jurisdiction are treated and followed to assure the containment of this very contagious disease. This statute only comes into play under the most extreme circumstances, when a person with t.b. refuses to complete their treatment cooperatively. Treatment for tuberculosis is a long-term thing. You don't go to the doctor and get ten days' worth of antibiotics. It's typically six months and, depending on the particular case, it could be as long as 12 or 18 months. So, while the incidence of t.b. has decreased in this age of antibiotics and other modern treatments, Montana still does see tuberculosis cases and has had a consistent

number of cases over the last several years. Each case requires close personal attention. They do something that's called "directly observed therapy." It's a current standard of care, and that means that a nurse or other health care provider personally observes each dose of treatment being taken by the patient to assure that it's being taken appropriately according to schedule. There are a lot of complications with the current t.b. cases in Montana, because they're coming from some very difficult populations. Many of them are homeless. About 30 percent of them are alcoholics. These factors really affect the rate of compliance with t.b. treatment. Without SB 166, they are left with commitment to a hospital as the only option available if they have an extremely non-compliant t.b. patient. That's not always a medically necessary setting. It may be on occasion, and that's still an option under this bill. They really need some flexibility for county, state and tribal health departments to determine where t.b. patients should be placed in order to complete their treatment. She said that **Denise Ingman, Mt. Tuberculosis Control Officer** was with her and would be available to respond to questions. ***{Tape : 1; Side : A; Approx. Time Counter : 3.5 - 6.5}***

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Noennig asked **Kathleen Martin** if we still really need this, and are there any people who resist treatment that really need to be ordered by the court to be treated. **Ms. Martin** said yes, it does happen. The big question that comes up is, if the hospital is the only option for a court to commit, who's going to pay for it. So we really need to get some less restrictive settings available. It does happen, although it's not very frequent, but maybe once or twice a year. **Rep. Noennig** asked if it is still true that if they don't follow the recommendation, then they'll have a court order, and is the contagious nature of the disease the problem. **Ms. Martin** said it is a contagious disease and they want to control and contain it and not have it spread to anyone else.

Rep. Dell asked about the diminished numbers of people who ended up in Galen over the years due to tuberculosis. **Ms. Martin** said that currently they see 20 to 25 cases a year. This is a significant decrease from previous years. With the advent of new treatments, the number of cases has declined dramatically. ***{Tape : 1; Side : A; Approx. Time Counter : 6.7 - 8.9}***

Closing by Sponsor:

Sen. Stonington said this is a very straightforward bill. It is something that is a minor change in statute that updates the statute, and she hoped the committee would concur with it. **Rep. Schmidt** had agreed to carry the bill on the floor. ***{Tape : 1; Side : A; Approx. Time Counter : 9 - 9.3}***

HEARING ON SB 194

Sponsor: SEN. LINDA NELSON, SD 49, Medicine Lake

Proponents: Kip Smith, Dir., Mt. Health Research & Education Foundation, Mt. Hospital Assn.
Denzel Davis, Administrator, Quality Assurance Division, DPHHS
Mary Allen, Powell and Granite Counties

Opponents: None

Opening Statement by Sponsor:

SEN. LINDA NELSON, SD 49, Medicine Lake, said this is a simple bill that was introduced at the request of the Montana Hospital Association, with concurrence from the Quality Assurance Division of the Department of Health and Human Services. The bill would add a definition for "critical access hospital" to the Montana statute. The federal critical access hospital statutes for small rural hospitals replaces the medical assistance facility (MAF) status that was established by the legislature in 1987. ***{Tape : 1; Side : A; Approx. Time Counter : 9.8 - 10.8}***

Proponents' Testimony:

Kip Smith, Director of the Mt. Health Research and Education Foundation, a division of the Mt. Hospital Assn., said that the bill is a simple bill, despite the fact that it is 14 pages in length. MAFs, or medical assistance facilities, were created by the Montana legislature in 1987 as a limited service rural hospital model. This model was successfully demonstrated for 11 years under the direction of the foundation that he works for and the Dept. of Public Health and Human Services. In 1997, the federal government adopted their own rural hospital model, known as the critical access hospital, or CAH, based on the Montana model. Each of Montana's MAFs has now converted to a critical access hospital status on a federal basis. In the bill, section 4, page 8, number

13 in the definitions simply adds a definition of critical access hospital. It references section 5 of the bill, which starts on page 12. Section 5 simply incorporates the federal criteria for designation of a critical access hospital into Montana statute. This will allow the state to license these facilities as critical access hospitals, whereas now there's no authority to do that, so they've been licensed as medical assistance facilities. These are technical changes, and they'll have no effect on the delivery of health care services in the state nor on the costs of health care. All other sections of the bill are simply amending references in current law to MAF, so it now references CAH.

Denzel Davis, Administrator, Quality Assurance Division, DPHHS, said this bill needs to pass so DPHHS can license the current critical access hospital providers.

Mary Allen, Powell and Granite Counties, said they request that the bill be passed. ***{Tape : 1; Side : A; Approx. Time Counter : 10.9 - 14.2}***

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Esp said that the fiscal note indicated there is no fiscal impact, and he asked **Denzel Davis** if the designation carried any increased reimbursement possibilities for Medicaid. **Mr. Davis** said he would answer the first part of the question, regarding any additional cost to the department, by saying that from a licensure perspective, which had some costs as they were licensing MAFs, this cost now is all being shifted to the federal government because it's a federal model. With regard to the second question, when the state coverts to the critical access hospital, there are a number of cost incentives to make this shift. **Rep. Esp** asked if it could impact Medicaid in that our reimbursement may be higher for patients in a critical access facility. **Mr. Davis** said no it wouldn't, because Medicaid has always paid. Even in hospitals, they pay cost-based now. **Rep. Esp** asked **Mr. Davis** if his department had developed the criteria for the distance from another hospital. **Mr. Davis** said if you refer back to the medical assistance facility, that was a state-developed program that used the 35-mile distance from another hospital or also a geographic issue if you're on a secondary road. It also has another clause at the end of it that says if you're deemed a necessary provider, then the 35 miles is not applicable. The federal government took the MAF model and just put it in the regulations, so it was initiated by the state. **Rep.**

Esp asked **Mr. Davis** if his hospital, located in Livingston, which is only 19 or 20 miles from Bozeman, would get that special designation. **Mr. Davis** said Livingston has just converted to a critical access hospital, and, although the mileage wasn't there, there is a geographic barrier, the pass, so they didn't have to use the 35-mile piece. ***{Tape : 1; Side : A; Approx. Time Counter : 14.7 - 18.8}***

Closing by Sponsor:

Sen. Nelson thanked the committee for the hearing and said that they could see it is pretty much just technical changes, but it's something that needs to be done and she'd appreciate consideration of the bill. **Rep. Kasten** will carry it on the floor. ***{Tape : 1; Side : A; Approx. Time Counter : 18.9 - 19.2}***

EXECUTIVE ACTION ON SB 194

Motion/Vote: **REP. RASER** moved that **SB 194 BE CONCURRED IN. Motion carried unanimously.** ***{Tape : 1; Side : A; Approx. Time Counter : 19.9 - 20.3}***

EXECUTIVE ACTION ON SB 166

Motion/Vote: **REP. JENT** moved that **SB 166 BE CONCURRED IN. Motion carried unanimously.** ***{Tape : 1; Side : A; Approx. Time Counter : 20.5 - 21.1}***

EXECUTIVE ACTION ON SB 52

Motion: **REP. DELL** moved that **SB 52 BE CONCURRED IN.**

Substitute Motion: **REP. HIMMELBERGER** made a substitute motion that **SB 52 BE AMENDED.**

Discussion: **Rep. Himmelberger** said he had not seen the amendment, but **Rep. Laszloffy** had spoken with him about it. **Mr. Niss** explained the amendment. **EXHIBIT(huh52a01)**

Motion/Vote: **REP. HIMMELBERGER** moved that **SB 52 BE AMENDED. Motion carried unanimously.**

Motion/Vote: **REP. LEE** moved that **SB 52 BE CONCURRED IN AS AMENDED. Motion carried unanimously.** ***{Tape : 1; Side : A; Approx. Time Counter : 22.8 - 28}***

ADJOURNMENT

Adjournment: 5:00 P.M.

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REP. BILL THOMAS, Chairman

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PATI O'REILLY, Secretary

BT/PO/JB
Jan Brown transcribed these minutes

EXHIBIT(huh52aad)